

SENATE BILL NO. 390

INTRODUCED BY JOE BALYEAT

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE CLEAN CAMPAIGN ACT; REQUIRING CANDIDATES AND COMMITTEES SUPPORTING CANDIDATES OR BALLOT ISSUES TO PROVIDE CANDIDATES OR BALLOT ISSUE COMMITTEES IN PRIMARY AND GENERAL ELECTIONS WITH COPIES OF CERTAIN CAMPAIGN ADVERTISING INTENDED TO BE DISTRIBUTED IN THE 10 DAYS PRIOR TO AN ELECTION; PROVIDING AN OPPORTUNITY FOR CANDIDATES OR BALLOT ISSUE COMMITTEES TO RESPOND; DIRECTING VARIOUS PRINT AND BROADCAST MEDIA TO PROVIDE ADVERTISING SPACE AT PREVAILING RATES FOR RESPONSE ADVERTISING; PROVIDING CIVIL PENALTIES FOR VIOLATIONS; AND AMENDING SECTION 13-37-128, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 4 ~~3~~] may be referred to as the "Clean Campaign Act".

NEW SECTION. Section 2. Fair ~~comment~~ NOTICE period before election -- definition. (1) A candidate, a political committee that has filed a certification under 13-37-201, and an independent political committee shall at the time specified in subsection (3) provide to candidates or committees listed in subsection (2) any final copy of campaign advertising that is intended for public distribution in the 10 days prior to an election in print media, in printed material, or by broadcast media unless:

(a) substantially identical material already was published or broadcast; or

(b) the material does not identify or mention the opposing candidate.

(2) The material must be provided to:

(a) all other candidates who have filed for the same office ~~or~~ AND who are individually identified or mentioned in the advertising, except candidates mentioned in the context of endorsements; or

(b) any committee representing a ballot issue identified or mentioned by the advertising, if the committee has filed a certification pursuant to 13-37-201.

(3) Final copies of material described in subsection (1) must be provided to the candidates and

committees listed in subsection (2) at the following times:

(a) at the same time as the final copy of the material is provided to a newspaper publisher for PUBLISHED OR BROADCAST OR DISSEMINATED TO THE public dissemination;

(b) at the same time the final transcript is provided to the broadcaster;

(c) if the material is disseminated by direct mail, on the date of the postmark; or

(d) if the material is prepared and disseminated by hand, on the day the material is first being made available to the general public.

(4) The copy of the material that must be provided to the candidates and committees listed in subsection (2) must be provided by electronic mail, facsimile transmission, or hand delivery, with a copy provided by direct mail if the recipient does not have available either electronic mail or facsimile transmission. If the material is for broadcast media, the copy provided must be a written transcript of the broadcast.

(5) For the purposes of this section, an independent political committee is a committee that is not specifically organized on behalf of a particular candidate or that is not controlled either directly or indirectly by a candidate or a candidate's committee in conjunction with the making of expenditures or accepting contributions.

~~NEW SECTION. Section 3. Opportunity for response -- media obligation. (1) The print media and the broadcast media shall provide to a requesting candidate or political committee that has filed a certification under 13-37-201 an opportunity to respond if the candidate or political committee requests an opportunity to counter new or modified advertising that is published or broadcast within the 10 days prior to an election. The response opportunity must include the availability of response advertising paid at prevailing rates by either a candidate or a political committee that has filed a certification under 13-37-201.~~

~~(2) The response opportunity must be provided at the next practical publication or broadcast date requested by the candidate or a committee described in subsection (1).~~

NEW SECTION. Section 3. Penalties. A person who violates [section 2 or 3] is liable in a civil action pursuant to 13-37-128.

Section 4. Section 13-37-128, MCA, is amended to read:

"13-37-128. Cause of action created. (1) A person who intentionally or negligently violates any of the

1 reporting provisions of this chapter or a provision of [sections 1 through 4 3] is liable in a civil action brought by
2 the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an
3 amount up to \$500 or three times the amount of the unlawful contributions or expenditures, whichever is greater.

4 (2) A person who makes or receives a contribution or expenditure in violation of ~~13-35-225~~, 13-35-227,
5 13-35-228, or this chapter or who violates 13-35-226 is liable in a civil action brought by the commissioner or
6 a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to \$500 or
7 three times the amount of the unlawful contribution or expenditure, whichever is greater."

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9 NEW SECTION. **Section 5. Codification instruction.** [Sections 1 through 4 3] are intended to be
10 codified as an integral part of Title 13, chapter 35, and the provisions of Title 13, chapter 35, apply to [sections
11 1 through 4 3].

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